

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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In the Matter of the Application of
Southern California Gas Company,
San Diego Gas & Electric Company and
Southern California Edison Company for
Approval of Changes to Natural Gas
Operations and Service Offerings.

A.06-08-026
(Filed August 28, 2006)

**SOUTHERN CALIFORNIA GENERATION COALITION
MOTION TO STRIKE**

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Dated: March 7, 2007

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In accordance with Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the Southern California Generation Coalition (“SCGC”) respectfully moves to strike a portion of testimony submitted by Southern California Gas Company (“SoCalGas”) and San Diego Gas & Electric Company (“SDG&E”) in the captioned proceeding.

SoCalGas and SDG&E propose that their shareholders should be permitted to retain 10 percent of interruptible access revenues subject to a \$5 million annual cap. SoCalGas and SDG&E made precisely the same proposal in Application (“A.”) 04-12-004. The Commission rejected the proposal in Decision (“D.”) 06-12-031 (Dec. 14, 2006). Insofar as the Commission specifically addressed and resolved the issue in D.06-12-031, the parties should be relieved of the burden of relitigating the issue in this instant proceeding. The SoCalGas/SDG&E testimony that raises the issue should be stricken.

I. BACKGROUND: CONSIDERATION OF THE 90/10 IAC REVENUE SHARING MECHANISM IN A.04-12-004.

In A.04-12-004, SoCalGas and SDG&E proposed, *inter alia*, to institute an Interruptible Access Charge (“IAC”). SoCalGas and SDG&E proposed 90/10 ratepayer/shareholder sharing of IAC revenues with a \$5 million per year cap on the shareholder retention. A.04-12-004, Exhibit (“Ex.”) 12 at 16 (SoCalGas/SDG&E-Watson); Ex. 37 at 5-6 (SoCalGas/SDG&E-Smith).

SoCalGas/SDG&E witness Schwecke proposed a description of an “Integrated Transmission Balancing Account” (“ITBA”) that would be included in the Preliminary Statement portion of the SoCalGas tariff. The description provided for the 90/10 sharing mechanism. Ex. 15, Description of ITBA (SoCalGas/SDG&E-Schwecke).

Various parties opposed shareholder retention of any portion of IAC revenues. *See* SCGC Opening Brief at 63-64 (Sep. 27, 2006). In D.06-12-031, the Commission directly addressed the 90/10 sharing mechanism and rejected it:

Some parties oppose the 90/10 sharing/incentive mechanism for interruptible transmission revenues. The availability of interruptible service provides a check on those FAR holders who seek to maximize their financial gain by withholding FAR capacity during a time of need for capacity. Under the proposed G-RPA tariff, SoCalGas is obligated to “make available all unutilized firm receipt point access capacity on an interruptible basis” (Ex. 15, Schedule No. G-RPA, Special Condition 67). There is no need to provide SoCalGas with an incentive to sell unused receipt point access when it is required under the tariff to do so. The proposal of SDG&E and SoCalGas for a shareholder incentive sharing mechanism for the revenues associated with interruptible receipt point access capacity is not adopted.

D.06-12-031 at 91-92. No party filed an application for rehearing of the Commission’s rejection of the 90/10 sharing mechanism. Nor has any party filed a petition for modification or a motion for reconsideration regarding the sharing issue.

On January 29, 2007, SoCalGas filed Advice Letter No. 3706 (“Advice 3706”) to implement the provisions of D.06-12-031. SoCalGas proposed a revised description of the ITBA for inclusion in the SoCalGas Preliminary Statement. In compliance with the Commission’s finding in D.06-12-031, SoCalGas’ new description of the ITBA omits the provision for 90/10 sharing of IAC revenues. SoCalGas proposes, instead, that 100 percent of IAC revenues should

be flowed through to ratepayers. Protests of SoCalGas Advice 3706 were filed on March 2, 2007. No party protested the provision for 100 percent flow-through of IAC revenues.

II. IN THE INSTANT PROCEEDING, SOCALGAS AND SDG&E PROPOSE PRECISELY THE SAME 90/10 SHARING MECHANISM THAT WAS CONSIDERED IN A.04-12-004 AND REJECTED BY THE COMMISSION IN D.06-12-031.

In the Prepared Direct Testimony of Reginald M. Austria in this proceeding, SoCalGas and SDG&E propose the same sharing mechanism that the Commission addressed and rejected in D.06-12-031:

Pursuant to the Edison Settlement, interruptible access charges shall be 100% balanced to the extent of eliminating any undercollection in each utility's ITBA by the end of the calendar year and 90% balanced for any remaining interruptible access revenues. The remaining 10% shall be allocated to utility shareholders subject to a \$5 million annual cap which is applicable to the combined interruptible access revenues from SoCalGas and SDG&E.

Prepared Direct Testimony of Reginald M. Austria at 5:9-15 (Aug. 28, 2006). Mr. Austria testifies further: "The 10% shareholder incentive of interruptible access revenues shall be an exclusion in determining sharable earnings under each utility's PBR sharing mechanism." *Id.* at 5:20-22.

Mr. Austria appends to his testimony a Preliminary Statement description of the SoCalGas ITBA. The description provides for a 90/10 sharing mechanism in exactly the same words as sponsored by SoCalGas/SDG&E witness Schwecke in A.04-12-004. Mr. Austria also proposes a description of an ITBA to be included in the SDG&E Preliminary Statement which, paralleling the description of the SoCalGas ITBA, provides for 90/10 sharing of IAC revenues.

In his December 21, 2006 Scoping Memo, the Assigned Commissioner provided SoCalGas and SDG&E an opportunity to supplement their direct testimony on January 19, 2007. Scoping Memo at 9. Even though D.06-12-031 was signed on December 14, 2006,

witness Austria failed to update his testimony to conform to the Commission's decision rejecting the IAC revenue sharing mechanism.

III. REQUEST FOR RELIEF: STRIKE PORTIONS OF TESTIMONY IN WHICH SOCALGAS AND SDG&E PROPOSE A 90/10 SHARING MECHANISM.

SCGC requests that the Commission bar relitigation of the 90/10 IAC revenue sharing mechanism in this proceeding. To that end, SCGC requests that the Commission strike the passages quoted above from SoCalGas/SDG&E witness Austria's testimony. SCGC also requests that the Commission strike witness Austria's proposed wording for the SoCalGas ITBA and the SDG&E ITBA that would provide for 90/10 sharing of IAC revenues.¹

Parties have already expended resources litigating the merits of the 90/10 sharing mechanism in A.04-12-004, and the Commission has expended its resources to consider and dispose of the issue in D.06-12-031. To the extent to which any party had concerns about the Commission's disposition of the issue, the appropriate course would have been to file an application for rehearing, a petition for modification, or a motion for reconsideration of D.06-12-031. No party has availed itself of any of those opportunities. SoCalGas and SDG&E should not be permitted to burden either the parties or the Commission with a collateral attack upon D.06-12-031 by raising the issue of the 90/10 sharing mechanism in the instant proceeding.

¹ SoCalGas/SDG&E witness Morrow (formerly, witness Reed) mentions "[c]rediting the interruptible transmission revenues to the [ITBA], subject to an annual sharing and earnings cap mechanism" in his testimony at page 4, lines 19-21 of his Prepared Direct Testimony, and he appends to his testimony the SoCalGas/SDG&E Settlement Agreement. The Settlement Agreement contains a Preliminary Statement description of the SoCalGas ITBA that is the same as the description appended to Mr. Austria's testimony. However, SCGC interprets witness Morrow as only describing the contents of the Settlement Agreement. If SCGC's interpretation is correct, it seems it would be unnecessary to strike any portion of Mr. Morrow's testimony.

IV. CONCLUSION.

Wherefore, for the reasons set forth above, SCGC respectfully requests that the Commission not permit relitigation of the 90/10 IAC revenue sharing mechanism in the instant proceeding. To that end, SCGC requests that the Commission strike the testimony of SoCalGas/SDG&E witness Austria at 5:9-15 and 5:20-22, and that the Commission strike the proposed descriptions of the SoCalGas and SDG&E ITBAs that are appended to Mr. Austria's testimony.

Respectfully submitted,

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GENERATION COALITION**

Dated: March 7, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **SOUTHERN CALIFORNIA GENERATION COALITION MOTION TO STRIKE** on the service list for A.06-08-026 by serving a copy to each party by electronic mail, or by mailing a properly addressed copy by first-class mail with postage prepaid to each party unable to accept service by electronic mail.

Executed on March 7, 2007, at Los Angeles, California.

/s/ Rosemarie F. McBride

Rosemarie F. McBride

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